

City of Lincoln Commission on Human Rights News

Civil Rights Conference a Success

DIRECTOR'S NOTES

The 2010 Civil Rights Conference held April 20th and 21st was highly successful. 352 people attended this event, making it one of the most well attended events ever sponsored by LCHR. Conference evaluations indicated that over 95% of the attendees found the conference well planned, highly informative and would provide useful information. A big thank you to the Mayor, Commissioners and staff for their work and support of this event.

Also another big thank you to the sponsors of this event. This includes the Realtors Association of Lincoln, the Real Estate Commission of Nebraska, B & R Stores, Inc., the Nebraska Department of Economic Development, Nebraska Housing Developers Association, Omaha Human Rights and Relations Department and Burlington Northern.



INTAKES ON THE INCREASE IN 2010

LCHR has been very busy during the first four months of this year. Compared to last year at this time case intakes are up.

- We have had 9 housing complaints filed so far this year compared with 4 filed at this point in 2009.
- We have had 2 public accommodation complaints filed so far this year compared with 2 filed in all of last year.
- There have been 22 employment complaints filed as compared to 20 complaints filed in 2009 at this time.

LCHR OUTREACH ACTIVITIES INCREASING

Over the years LCHR has done extensive outreach in our community. It has long been our belief that education is one of the chief tools in fighting discrimination. We have a partnership with the Lincoln Housing Authority and Lincoln Public Schools in providing information on fair housing rights and with our LPS students on their workplace rights and responsibilities in their Career Educational classes. Recently we entered into a new partnership with the RentWise Program. This program provides information to tenants on the dos and don'ts of seeking and renting an apartment. LCHR facilitates a session on their fair housing rights. This year we have reached over 1500 people in 35 different public outreach sessions. It has been a busy year so far!!

Justice Department Settles Fair Housing Lawsuit

WASHINGTON – The Justice Department's Civil Rights Division announced an agreement with the Latvian Tower Condominium Association Inc. and its former president, Karl Tegtmeyer, to settle allegations of discrimination against families with children. Under the consent decree, the defendants must pay \$112,500 to victims of discrimination and an additional \$15,000 to the government as a civil penalty.

This lawsuit arose as a result of a complaint filed with the U.S. Department of Housing and Urban Development (HUD) by a couple who attempted to sell their condominium. After an investigation of the complaint, HUD issued a charge of discrimination and the complainants elected to have the case heard in federal court. The lawsuit alleged that the condominium association maintained rules that barred the sale or rental of condominiums to families with children. The lawsuit also alleged that the condominium association and Tegtmeyer's conduct constituted a pattern or practice of discrimination, and sought a civil penalty as well as monetary damages for any other persons harmed by the defendants' actions.

"Federal law guarantees families with children the right to equal access to housing. Settlements such as this one help ensure that all families can enjoy that right," said Thomas E. Perez, Assistant Attorney General for the Civil Rights Division. "The Department of Justice will vigorously pursue violations of the Fair Housing Act."

"This settlement sends a strong message that we will not tolerate discrimination in housing," said Deborah Gilg, U.S. Attorney for the District of Nebraska.

"Housing discriminating against families with children is illegal. Together with the Justice Department, HUD will ensure that neighborhoods are free from discrimination," stated John Trasviña, Assistant Secretary for Fair Housing & Equal Opportunity.

Fighting illegal housing discrimination is a top priority of the Justice Department. The federal Fair Housing Act prohibits discrimination in housing on the basis of race, color, religion, sex, familial status, national origin and disability.

More information about the Civil Rights Division and the laws it enforces is available at www.justice.gov/crt/. Persons who believe they have experienced or witnessed unlawful housing discrimination may call the Lincoln Commission on Human Rights at (402) 441-7624, visit our website <http://www.lincoln.ne.gov/city/mayor/human> or e-mail Margie Nichols at mnichols@lincoln.ne.gov.



Court: 'Tomboy' clerk can sue hotel over firing

By MICHAEL J. CRUMB Associated Press Writer

DES MOINES, Iowa (AP) - An Iowa hotel clerk who claims she was fired because she wasn't pretty enough can sue the hotel where she worked, a federal appeals court has ruled.

The St. Louis-based 8th U.S. Circuit Court of Appeals on Thursday reversed a lower court decision dismissing Brenna Lewis' lawsuit against Heartland Inns of America, which runs several hotels in Iowa.

Lewis, who describes herself as "slightly more masculine," claims she was fired in 2007 from the company's Ankeny hotel for not conforming to sexual stereotypes and for questioning recent policy changes.

According to court records, Lewis had worked for Heartland since 2005 when the company's director of operations, Barbara Cullinan, approved hiring her for a dayshift, front-desk job in Ankeny. Court records say Cullinan approved of the hiring over the phone but after seeing Lewis said that a second interview was necessary.

Heartland told Lewis it was firing her because she thwarted the proposed interview procedure was hostile toward new company policies, according to court records. Heartland referred calls to Cullinan. She and Lewis did not immediately return calls for comment Friday.

According to court records, Cullinan prefers to wear loose-fitting clothes, including men's button-down shirts and slacks. She has been mistaken for a man and referred to as "tomboyish." Court records show Cullinan had said Lewis lacked the "Midwestern girl look and was heard saying that Heartland staff should be pretty, especially for women working at the front desk.

In its ruling, the court noted that Lewis had received positive comments from her supervisors and customers and received two merit-based pay raises while working for Heartland.

The court also said nothing in Heartland's personnel manual mentions appearance, only that a guest representative "create a warm, inviting atmosphere."

Shortly before Lewis' firing, Heartland began requiring second interviews for those applying for front-desk jobs and bought video equipment so Cullinan and other hotel officials could see applicants before offering them a job.

The federal appeals court ruled that Lewis met her burden by providing evidence that "a fact-finder could infer a discriminatory motive in Heartland's actions to remove Lewis."

"We conclude that she has, for "an employer who discriminates against women because ... they do not wear dresses or makeup, is engaging in sex discrimination," the court wrote. "Companies may not base employment decisions for jobs ... on sex stereotypes."

The court also said Lewis provided enough evidence on her retaliation claim to show a connection between her firing and her conversation with Cullinan three days earlier. •

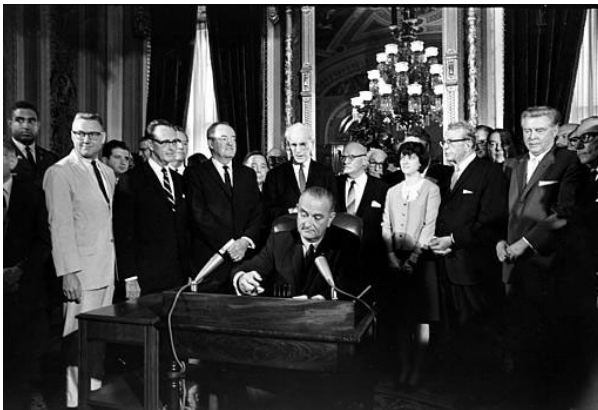
CELEBRATIONS IN APRIL

April was Fair Housing Month, and the celebration of ADA's 20th anniversary.

Fair Housing Act Facts:

On April 11th 1968, President Lyndon Johnson signed Title VIII of the Civil Rights Act of 1968. The 1968 Act was an expansion of the Civil Rights Act of 1964. This Act prohibited discrimination concerning the sale, rental, and financing of any housing unit on the basis of race, religion, national origin, sex, and as amended, disability and family status. Title VIII is also known as the Fair Housing Act.

In succeeding years the tradition of the Fair Housing celebration grew. Governors began to issue proclamations that designated April as "Fair Housing Month," and schools across the country sponsored poster and essay contests that focused upon fair housing issues. Regional winners from these contests often enjoyed trips to Washington, DC for events with HUD and their Congressional representatives.



President Johnson signing the Fair Housing Act, 1968.

Americans with Disabilities Act Facts:

The Americans with Disabilities Act of 1990 is a law that was enacted by the U.S. Congress in 1990. As described by congress as, "An Act to establish a clear and comprehensive prohibition of discrimination on the basis of disability." It was signed into law on July 26, 1990, by President George H. W. Bush, and later amended with changes effective January 1st 2009.



President George H. W. Bush signing the ADA, 1990.

The amendments, among other things, expanded the original act for individuals with disabilities. Disability is defined by the ADA as "a physical or mental impairment that substantially limits a major life activity." The determination of whether any particular condition is considered a disability is made on a case by case basis. •

FAIR HOUSING ACT – DISCRIMINATION AGAINST THE ELDERLY

By Angela Wortman, Senior Investigator for LCHR

Unlike Title VII of the Civil Rights Act of 1964, which prohibits discrimination in employment, age is not a protected basis under the Fair Housing Act. However, the Fair Housing Act was amended in 1988 to include, among other provisions, prohibitions against “handicap” discrimination. The Fair Housing Act defines “handicap” as: 1) a physical or mental impairment which substantially limits one or more of a person’s major life activities; 2) a record of having such an impairment; or 3) being regarded as having such an impairment.

The courts have made it clear over the years that many of the health conditions manifested with old age can be considered disabilities, but that old age itself is not a per se disability. Congress also recognized that individuals with disabilities “have been denied housing because of misperceptions, ignorance, and outright prejudice” and the right to be free from housing discrimination was considered “essential to the goal of independent living.” (House Judiciary Committee report, note 21 at 18).

Housing providers need to be aware that unfounded concerns for safety or questions about someone’s ability to live independently can be a violation of the Fair Housing Act. In a recent case filed with the LCHR, a housing provider had concerns over an elderly tenant’s ability to care for herself after she fell on the ice in the parking lot. This triggered a chain of events that began with the housing provider calling Adult Protective Services (APS) on the tenant, the housing provider asking the tenant to visit with a Home Health Care Provider, and culminated in the tenant being evicted from her unit. The housing provider denied evicting the tenant based on a real or perceived disability, but alleged that the tenant violated a provision in the lease agreement regarding the cleanliness of her unit, which in turn created a fire hazard.

Essentially, the Respondent was using a defense provided by the Fair Housing Act which states that housing need not be made available to people “whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.” (42 U.S.C.A. §3604(f)(9)). This is a legitimate defense, but a housing provider must make this determination based on “objective evidence that is sufficiently recent as to be credible, and not from unsubstantiated inferences, that the applicant would pose a risk.” (House Report, note 21). A housing provider must also make reasonable efforts to accommodate the disability to eliminate the safety issue or threat prior to taking the adverse action against the applicant or tenant.

In the case illustrated above, the housing provider sent a letter to the tenant’s family that referenced the Complainant’s lack of short term memory, and that “home health care” or “an assisted living facility” was “imperative.” This letter did not mention the “cleanliness” issue, which raised a suspicion as to the real reason for the tenant’s eviction.

Although age is not listed as a protected class under the Fair Housing Act, it is clear that many conditions associated with old age will be covered under the basis of disability. It is likely that many of us will become disabled within our lifetime, and if that should happen, it is nice to know that the Fair Housing Act can protect our choice to live independently. •

Welcome!

The Lincoln Commission on Human Rights would like to welcome three new commissioners to the board.

Takako Olson, Coordinator for Lincoln Public Schools

Mary Reece, Office Assistant/Administrator

Anitra M. Warrior, Mental Health Therapist

Be Prepared for Severe Weather

Check for hazards in the home

During and right after a disaster, ordinary items in the home can cause injury or damage. Anything that can move, fall, break or cause fire is a home hazard. Check for items such as bookcases, hanging pictures, or overhead lights that could fall in an earthquake or a flood and block an escape path.

Be ready to evacuate

Have a plan for getting out of your home or building (ask your family or friends for assistance, if necessary). Also, plan two evacuation routes because some roads may be closed or blocked in a disaster.

- Create a network of neighbors, relatives, friends, and coworkers to aid you in an emergency. Discuss your needs and make sure everyone knows how to operate necessary equipment.
- If you are mobility impaired and live or work in a high-rise building, have an escape chair.
- If you live in an apartment building, ask the management to mark accessible exits clearly and to make arrangements to help you leave the building.
- Keep specialized items ready, including extra wheelchair batteries, oxygen, catheters, medication, prescriptions, food for service animals, and any other items you might need.
- Be sure to make provisions for medications that require refrigeration.
- Keep a list of the type and model numbers of the medical devices you require.
- Wear medical alert tags or bracelets to identify your disability.
- Know the location and availability of more than one facility if you are dependent on a dialysis machine or other life-sustaining equipment or treatment.

Disability/Special Need	Additional Steps
Visually impaired	May be extremely reluctant to leave familiar surroundings when the request for evacuation comes from a stranger. A guide dog could become confused or disoriented in a disaster. People who are blind or partially sighted may have to depend on others to lead them, as well as their dog, to safety during a disaster.
Hearing impaired	May need to make special arrangements to receive warnings.
Mobility impaired	May need special assistance to get to a shelter.
Single working parent	May need help to plan for disasters and emergencies.
Non-English speaking persons	May need assistance planning for and responding to emergencies. Community and cultural groups may be able to help keep people informed.
People without vehicles	May need to make arrangements for transportation.
People with special dietary needs	Should take special precautions to have an adequate emergency food supply.
People with medical conditions	Should know the location and availability of more than one facility if dependent on a dialysis machine or other life-sustaining equipment or treatment.
People with dementia	Should be registered in the Alzheimer's Association Safe Return Program

Lincoln Commission on Human Rights' Annual Report is now available!

**The current issues of the report can be found at
<http://www.lincoln.ne.gov/city/mayor/human/>
 If you would like a hard copy of the report or a different
 formatted version please contact
Larry Williams, Director
lwilliams@lincoln.ne.gov**

Jurisdiction:

The City of Lincoln Human Rights Commission has jurisdiction to investigate alleged discrimination complaints in the areas of employment, housing, and public accommodation occurring within Lincoln's city limits. We do not have jurisdiction to investigate alleged discrimination complaints involving City, County and State Government employees, offices or facilities, or state universities.

- Resources:**
- ***Discrimination complaints outside of Lincoln City limits:*** Nebraska Equal Opportunity Commission—402-471-2024 or the regional Equal Opportunity Commission office in St. Louis, MO (800) 669-4000
 - ***City agency complaints***—City Ombudsman/Mayor's Office (402) 441-7511
 - ***University of Nebraska-Lincoln employment complaints*** — UNL Affirmative Action (402) 472-3417
 - ***Lincoln Police Department complaints***—Internal Affairs Division (402) 441-7204, Citizen Advisory Board (402) 441-6351, or Mayor's office (402) 441-7511
 - ***Jail/Penitentiary complaints***—Ombudsman at the State office for Corrections (402) 471-2035
 - ***Landlord-Tenant disputes***—Lincoln Action Program Specialist (402) 471-4515
 - ***Complaints about legal matters***—County Attorney (402) 441-7321, Southeast Nebraska Legal Services (402) 435-2161, Nebraska Attorney General (402) 471-2682, or Nebraska State Bar Association (402) 475-7091
 - ***Advocacy Services for people with disabilities***—League of Human Dignity (402) 441-7891 or Nebraska Advocacy Services (402) 474-3183.



**Fair Housing.
 It's Not an Option.
 It's the Law!**

If you feel that you have been denied the right of purchase, rental or are otherwise discriminated against when dealing with a person regarding housing and believe this was on the basis of your race, color, gender, religion, marital or familial status, disability, or national origin; please call the Lincoln Commission on Human Rights and set up an intake interview. Our phone number is (402) 441-7624, and all of our cases are completely confidential.